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SENATE BILL 767

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Mary Kay Papen

AN ACT

RELATING TO HEALTH CARE; PROVIDING ADDITIONAL LICENSING
REQUIREMENTS FOR CERTAIN HOSPITALS; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. LEGISLATIVE FINDINGS--SPECIAL LICENSING
REQUIREMENTS FOR BOUTIQUE HOSPITALS. --

A. The legislature finds that:

(1) acute care general hospitals throughout
New Mexico operate emergency departments and provide vital
emergency medical services to patients requiring immediate
medical care;

(2) federal and state laws require hospitals
that operate an emergency department to provide certain
emergency services and care to any person, regardless of that
person's ability to pay. Accordingly, these hospitals

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1 encounter significant financial losses when treating uninsured
2 or underinsured patients;

3 (3) the ability of a hospital to continue to
4 provide emergency services to New Mexico's insured and
5 uninsured patients is threatened by so-called "boutique
6 hospitals" that offer only services that are profitable and do
7 not offer services that operate at a loss; and

8 (4) if hospitals that operate emergency
9 departments lose patients to boutique hospitals, emergency
10 departments will cease to be financially viable and will have
11 to close, with disastrous results for the public's health.

12 B. As used in this section:

13 (1) "boutique hospital" means a hospital that
14 limits admissions according to medical or surgical specialty,
15 type of disease or medical condition, or a hospital that limits
16 its inpatient hospital services to surgical services or
17 invasive diagnostic and treatment procedures; provided,
18 however, that a "boutique hospital" does not include:

19 (a) a hospital licensed by the
20 department as a special hospital;

21 (b) an eleemosynary hospital that does
22 not bill patients for services provided; or

23 (c) a hospital that has been granted a
24 license prior to January 1, 2003; and

25 (2) "department" means the department of

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1 health.

2 C. Upon receiving an application for a license by a
3 boutique hospital, the department shall conduct a cost-benefit
4 analysis. The cost-benefit analysis shall:

5 (1) consider:

6 (a) the need for the hospital by the
7 state and the local community;

8 (b) the detrimental effects that the
9 hospital may have on the existing standards of medical care in
10 the local community, including the potential harm to existing
11 acute-care and emergency facilities; and

12 (c) employment opportunities and other
13 economic benefits that the hospital may provide to the local
14 community;

15 (2) identify any special requirements that
16 will maximize benefits or minimize costs and that should be
17 included as a condition for licensure; and

18 (3) be paid for by the applicant.

19 D. The department shall not issue a license to a
20 boutique hospital unless the hospital agrees to:

21 (1) continuously maintain and operate an
22 emergency department that provides either basic or
23 comprehensive emergency medical services comparable to those
24 provided by licensed acute-care general hospitals;

25 (2) participate in the medicaid, medicare and

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1 county indigent care programs;

2 (3) provide emergency services and care to
3 nonpaying patients and low-income reimbursed patients in the
4 same proportion, as determined by the department, as the
5 patients are treated in acute-care general hospitals in the
6 local community; and

7 (4) comply with any special conditions for
8 licensure identified in the cost-benefit analysis.

9 E. If a boutique hospital, after licensure,
10 subsequently fails to comply with a condition imposed pursuant
11 to Subsection D of this section, the department shall suspend
12 the license of that hospital until the condition is met.

13 Section 2. EMERGENCY.--It is necessary for the public
14 peace, health and safety that this act take effect immediately.

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